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10/777,044	02/13/2004	Bijan Tadayon	111325-234900	3920
22204	7590	12/19/2008	EXAMINER	
NIXON PEABODY, LLP			KUCAB, JAMIE R	
401 9TH STREET, NW				
SUITE 900			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20004-2128			3621	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **NOTICE OF NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT**

### ***Information Disclosure Statement***

1. The information disclosure statement filed November 3, 2008 fails to comply with 37 C.F.R. §1.97(d) because it lacks a statement as specified in 37 C.F.R. §1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.
2. The information disclosure statement filed September 4, 2008 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 C.F.R. §1.97(e). 37 C.F.R. §1.97(e) requires a statement that the information in the IDS was “***either*** (1) ... first cited in any communication from a foreign patent office ... not more than three months prior to the filing of the information disclosure statement; ***or*** (2) That ... no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to filing of the information disclosure statement.” [emphasis added] Applicant’s submission includes both statements without specifying which is applicable. It is not possible for both statements to be applicable (due to the omitted text in statement 2), and 1.97(e) requires that Applicant specify *either* one statement *or* the other. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.
3. The information disclosure statement filed September 4, 2008 fails to comply with 37 C.F.R. §1.97(d) because it lacks the fee set forth in 37 C.F.R. §1.17(p). It has been

placed in the application file, but the information referred to therein has not been considered.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE KUCAB whose telephone number is (571)270-3025. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JK

/ANDREW J. FISCHER/  
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